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E-Filed on June 26, 2006

Attorneys for SCOTT K. CANEPA

**UNITED STATE BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:	)	Case No. BK-S-06-10725-LBR
	)	Case No. BK-S-06-10726-LBR
USA COMMERCIAL MORTGAGE COMPANY,	)	Case No. BK-S-06-10727-LBR
	)	Case No. BK-S-06-10728-LBR
Debtor.	)	Case No. BK-S-06-10729-LBR

In re:	)	Chapter 11
USA CAPITAL REALTY ADVISORS, LLC,	)	
	)	
Debtor.	)	

**Jointly Administered Under  
Case No. BK-S-06-10725-LBR**

In re:	)
USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC,	)
	)
Debtor.	)

In re:	)
USA CAPITAL FIRST TRUST DEED FUND, LLC,	)
	)
Debtor.	)

In re:	)
USA SECURITIES, LLC,	)
	)
Debtor.	)

Affects:	)
<input type="checkbox"/> All Debtors	)
<input checked="" type="checkbox"/> USA Commercial Mortgage Company	)
<input type="checkbox"/> USA Securities, LLC	)
<input type="checkbox"/> USA Capital Realty Advisors, LLC	)
<input type="checkbox"/> USA Capital Diversified Trust Deed Fund, LLC	)
<input type="checkbox"/> USA First Trust Deed Fund, LLC	)

Date: June 15, 2006  
Time: 10:00 a.m.

**OBJECTION TO DEBTOR'S PROPOSED ORDER RE:  
MOTION FOR RELIEF FROM THE AUTOMATIC STAY  
TO TERMINATE LOAN SERVICING AGREEMENT  
FOR DIRECT LOAN TO BOISE/GOWAN, LLC**

1 SCOTT K. CANEPA, by and through his counsel, submits the following objection to the  
2 Proposed Order Preliminarily Denying Motion for Relief from the Automatic Stay to Terminate  
3 Loan Servicing Agreement for Direct Loan to Boise/Gowan, LLC and Continuing Hearing to August  
4 4, 2006 ("Debtor's Order"), a copy of which is attached as Exhibit 1. Despite good faith efforts to  
5 resolve Mr. Canepa's objection to the Debtor's Order, counsel for Mr. Canepa and counsel for the  
6 Debtor have not been able to reach agreement, and counsel for Mr. Canepa is now out of the country  
7 until July 10. Consequently, Mr. Canepa circulated a proposed alternative Order, to-wit: Order  
8 Regarding Motion for Relief from the Automatic Stay to Terminate Loan Servicing Agreement for  
9 Direct Loan to Boise/Gowan ("Canepa Order"), a copy of which is attached as Exhibit 2.

10 Mr. Canepa's objections to the Debtor's Order are as follows:

11 1. Although the Court did not grant Mr. Canepa's Motion, Mr. Canepa does not believe  
12 that it appropriate to literally state that the Court "preliminarily denied" the Motion. Mr. Canepa  
13 understood that the June 15, 2006 hearing was the preliminary hearing, and that the Motion was  
14 continued to August 4, 2006, at 1:30 p.m. for a final hearing, with the automatic stay to remain in  
15 place pending the conclusion of the continued hearing.

16 2. Because the final hearing is more than 30 days after the conclusion of the Preliminary  
17 Hearing held June 15, it is also necessary to add the language contained in the second paragraph of  
18 page two of Mr. Canepa's Order (Exhibit 2).

19 3. Entry of an order which denies the Motion, even on a preliminary basis, may require  
20 Mr. Canepa to file an appeal of that order, even though the Motion was continued to August 4. Such  
21 an appeal would be unnecessary and costly to Mr. Canepa, parties in interest and to the Debtor's  
22 estate.

23 4. Counsel for other parties in interest have signed both orders, indicating that they will  
24 defer to Debtor's counsel and Mr. Canepa's counsel for a proposed resolution. Unfortunately, there  
25 was not sufficient time to do so before counsel for Mr. Canepa left the country.

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1 Mr. Canepa therefore provides this objection and alternative order to explain these issues to  
2 the Court during her absence.

3 Respectfully submitted,

4 LIONEL SAWYER & COLLINS

5 /s/ Laurel E. Davis

6 By

Laurel E. Davis

Attorneys for SCOTT K. CANEPA

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# EXHIBIT 1

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and

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 Attorneys for Debtors and Debtors-in-Possession

**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEVADA**

In re:  
 USA COMMERCIAL MORTGAGE COMPANY,  
 Debtor.

Case No. BK-S-06-10725 LBR  
 Case No. BK-S-06-10726 LBR  
 Case No. BK-S-06-10727 LBR  
 Case No. BK-S-06-10728 LBR  
 Case No. BK-S-06-10729 LBR

In re:  
 USA CAPITAL REALTY ADVISORS, LLC,  
 Debtor.

Chapter 11

In re:  
 USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC,  
 Debtor.

Jointly Administered Under  
 Case No. BK-S-06-10725 LBR

In re:  
 USA CAPITAL FIRST TRUST DEED FUND, LLC,  
 Debtor.

In re:  
 USA SECURITIES, LLC,  
 Debtor.

1 Affects:

- 2 ☐ All Debtors  
 3 ☒ USA Commercial Mortgage Company  
 4 ☐ USA Securities, LLC  
 5 ☐ USA Capital Realty Advisors, LLC  
 6 ☐ USA Capital Diversified Trust Deed Fund, LLC  
 7 ☐ USA First Trust Deed Fund, LLC

Date: June 15, 2006

Time: 10:00 a.m.

8 **ORDER PRELIMINARILY DENYING MOTION FOR RELIEF FROM THE**  
 9 **AUTOMATIC STAY TO TERMINATE LOAN SERVICING AGREEMENT FOR**  
 10 **DIRECT LOAN TO BOISE/GOWAN, LLC AND CONTINUING HEARING TO AUGUST**  
 11 **4, 2006[AFFECTS USA COMMERCIAL MORTGAGE CO.]**

12 The Motion For Relief From The Automatic Stay To Terminate Loan Servicing  
 13 Agreement For Direct Loan To Boise/Gowan, LLC (the "Motion") having come before this Court  
 14 on June 15, 2006; the Debtors, USA Commercial Mortgage Company ("USACM"), USA  
 15 Securities, LLC ("USA Securities"), USA Capital Realty Advisors, LLC ("USA Realty"), USA  
 16 Capital Diversified Trust Deed Fund ("USA Diversified"), and USA Capital First Trust Deed  
 17 Fund ("USA First") (collectively referred to as "Debtors") appearing by and through their counsel,  
 18 Ray Quinney & Nebeker P.C. and Schwartzer & McPherson Law Firm; Scott K. Canepa  
 19 appearing by and through his counsel Laurel E. Davis, Esq. of Lionel Sawyer & Collins, it is  
 20 hereby

21 ORDERED that the Motion For Relief From The Automatic Stay To Terminate Loan  
 22 Servicing Agreement For Direct Loan To Boise/Gowan, LLC is preliminarily denied and will be  
 23 continued to a final hearing on August 4, 2006 at 1:30 p.m.; and

24 ORDERED that the automatic stay under 11 U.S.C. § 362 shall remain in effect pending  
 25 the conclusion of, or as a result of, the final hearing and determination under § 362(d) on the  
 26 Motion set for August 4, 2006, a period which is in excess of 30 days after the conclusion of the  
 27 preliminary hearing held on June 15, 2006 but which excess time is required due to compelling  
 28 circumstances; and it is further

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ORDERED that pending the continued hearing on the Motion, the Debtors shall maintain the status quo with respect to the Boise/Gowan 93 LLC loan; absent further order of this Court, the Debtors shall not: (1) make any further advance to the Borrower; or (2) extend, forbear or otherwise modify the maturity date for the loan.

Submitted by:

Annette W. Jarvis, Utah Bar No. 1649  
RAY QUINNEY & NEBEKER P.C.  
36 South State Street, Suite 1400  
P.O. Box 45385  
Salt Lake City, Utah 84145-0385  
and

\_\_\_\_\_  
Lenard E. Schwartz, Esq.  
Jeanette E. McPherson, Esq.  
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Las Vegas, Nevada 89146  
Attorneys for Debtor and Debtor-In-Possession

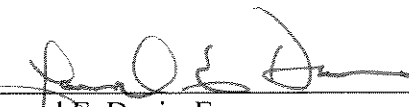
Approved/Disapproved by:

OFFICE OF THE U.S. TRUSTEE

By: \_\_\_\_\_  
August Landis, Esq.  
Scott Farrow, Esq.

Approved/Disapproved by:

LIONEL SAWYER & COLLINS

By:   
Laurel E. Davis, Esq.  
1700 Bank of America Plaza  
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Las Vegas, NV 89101  
Attorney for Scott K. Canepa

Approved/Disapproved by:

STUTMAN TREISTER & GLATT and SHEA  
& CARLYON, LTD.

Approved/Disapproved by:

GORDON & SILVER, LTD

By: \_\_\_\_\_  
Frank A. Merola, Esq.  
Eve Karasik, Esq.  
Christine Pajak, Esq.  
Counsel for the Official Committee of  
Equity Security Holders of USA Capital  
First Trust Deed Fund LLC

By: \_\_\_\_\_  
Gerald M. Gordon, Esq.  
Gregory E. Garman, Esq.  
Counsel for Official Committee of Holders  
of Executory Contract Rights of USA  
Commercial Mortgage Company

**ORDER PRELIMINARILY DENYING MOTION FOR RELIEF FROM THE AUTOMATIC  
STAY TO TERMINATE LOAN SERVICING AGREEMENT FOR DIRECT LOAN TO  
BOISE/GOWAN, LLC AND CONTINUING HEARING TO AUGUST 4, 2006 [AFFECTS  
USA COMMERCIAL MORTGAGE CO.]**

Approved/Disapproved by:

Approved/Disapproved by:

ORRICK, HERRINGTON & SUTCLIFFE LLP  
and BECKLEY SINGLETON, CHTD.

LEWIS AND ROCA, LLP

By: \_\_\_\_\_

By: \_\_\_\_\_

Mark A. Levinson Esq.  
Lynn Trinka Ernce, Esq.  
[Proposed] Counsel for the Official  
Committee of Equity Security Holders of  
USA Capital Diversified Trust Deed Fund  
LLC

Susan M. Freeman  
Rob Charles  
Counsel for Official  
Committee of Unsecured Creditors of  
USA Commercial Mortgage Company

Approved/Disapproved by:

By: \_\_\_\_\_

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# EXHIBIT 2

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Attorneys for SCOTT K. CANEPA

**UNITED STATES BANKRUPTCY COURT  
 DISTRICT OF NEVADA**

In re:  
 USA COMMERCIAL MORTGAGE COMPANY,  
 Debtor.

Case No. BK-S-06-10725 LBR  
 Case No. BK-S-06-10726 LBR  
 Case No. BK-S-06-10727 LBR  
 Case No. BK-S-06-10728 LBR  
 Case No. BK-S-06-10729 LBR

In re:  
 USA CAPITAL REALTY ADVISORS, LLC,  
 Debtor.

Chapter 11

In re:  
 USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC,  
 Debtor.

Jointly Administered Under  
 Case No. BK-S-06-10725 LBR

In re:  
 USA CAPITAL FIRST TRUST DEED FUND, LLC,  
 Debtor.

In re:  
 USA SECURITIES, LLC,  
 Debtor.

Affects:  
☐ All Debtors  
☒ USA Commercial Mortgage Company  
☐ USA Securities, LLC  
☐ USA Capital Realty Advisors, LLC  
☐ USA Capital Diversified Trust Deed Fund, LLC  
☐ USA First Trust Deed Fund, LLC

Date: June 15, 2006  
 Time: 10:00 a.m.

**ORDER REGARDING MOTION FOR RELIEF FROM THE  
 AUTOMATIC STAY TO TERMINATE LOAN SERVICING  
 AGREEMENT FOR DIRECT LOAN TO BOISE/GOWAN  
 [Affects USA Commercial Mortgage]**

The Motion for Relief from the Automatic Stay to Terminate Loan Servicing Agreement for Direct Loan to Boise/Gowan, LLC (the "Motion") came on regularly for hearing, with appearances noted on the record. The Court having considered the moving papers and argument of counsel and persons appearing *in proper person*, and based upon the findings and conclusions

1 set forth on the record, it is hereby

2 ORDERED that on June 15, 2006, at 10:00 a.m., the Court held a preliminary hearing on  
3 the Motion ("Preliminary Hearing"), and a final hearing on the Motion shall be held August 4,  
4 2006, at 1:30 p.m. ("Final Hearing"). It is

5 FURTHER ORDERED that the automatic stay of 11 U.S.C. § 362(a) shall remain in  
6 effect pending the conclusion of (or as a result of) the Final Hearing and the Court's  
7 determination under 11 U.S.C. § 362(d), and the Court expressly finds that compelling  
8 circumstances require the Court to conclude the Final Hearing more than 30 days after the  
9 conclusion of the Preliminary Hearing. It is

10 FURTHER ORDERED that pending the conclusion of the Final Hearing, USA  
11 Commercial Mortgage Company shall maintain the status quo with respect to the Boise/Gowan  
12 93 LLC loan (the "Loan"), and absent further Order of this Court, Commercial Mortgage  
13 Company shall not: (1) make any further advance to the Borrower under the Loan; or (2) extend,  
14 forbear or otherwise modify the maturity date of the Loan.  
15  
16  
17

18 SUBMITTED BY:  
19 LIONEL SAWYER & COLLINS

20 By: /s/ Laurel E. Davis  
21 Laurel E. Davis, Bar No. 3005  
22 300 South Fourth Street, Suite 1700  
Las Vegas, Nevada 89101

23 Attorneys for SCOTT K. CANEPA

24 Approved/Disapproved by:

25 OFFICE OF THE U.S. TRUSTEE

26  
27 By: \_\_\_\_\_  
28 August Landis, Esq.  
Scott Farrow, Esq.

Approved/Disapproved by:

RAY QUNNEY & NEBEKER, P.C.  
SCHWARTZER & McPHERSON LAW FIRM

By: \_\_\_\_\_  
Lenard E. Schwartz, Esq.  
Counsel for Debtors and  
Debtors in Possession

1  
2  
3 Approved/Disapproved by:

4 STUTMAN TREISTER & GLATT  
5 SHEA & CARLYON, LTD.

6 By: \_\_\_\_\_  
7 Frank A. Merola, Esq.  
8 Eve Karasik, Esq.  
9 Counsel for the Official Committee of Equity  
10 Security Holders of USA Capital First Trust  
11 Deed Fund LLC

Approved/Disapproved by:

GORDON & SILVER, LTD

By: \_\_\_\_\_  
Gerald M. Gordon, Esq.  
Gregory E. Garman, Esq.  
Counsel for Official Committee of Holders of  
Executory Contract Rights of USA  
Commercial Mortgage Company

9 Approved/Disapproved by:

10 ORRICK, HERRINGTON & SUTCLIFFE LLP  
11 BECKLEY SINGLETON, CHTD.

12 By: \_\_\_\_\_  
13 Mark A. Levinson Esq.  
14 Counsel for the Official Committee of Equity  
15 Security Holders of USA Capital Diversified  
16 Trust Deed Fund LLC

Approved/Disapproved by:

LEWIS AND ROCA, LLP

By: \_\_\_\_\_  
Susan M. Freeman, Esq.  
Rob Charles, Esq.  
Counsel for Official  
Committee of Unsecured Creditors of  
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16 Approved/Disapproved by:

17  
18 By: \_\_\_\_\_  
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